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Attorney Docket No. 10322.200-US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Yaver *et al.*

Confirmation No. 8946

Serial No.: 10/656,055

Group Art Unit: 1645

Filed: September 5, 2003

Examiner: Hines, Jana A.

For: Methods for Identifying Antimicrobial Compounds

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This paper is being filed in response to the Office Action mailed July 15, 2005, that made restriction requirements. Applicants were requested to elect one of eleven designated groups under 35 U.S.C. § 121:

- I. Claims 1, 11, 27, 34, 36 and 42-43 are drawn to a method for determining the mode of action of an antimicrobial compound wherein a single sequence is selected from the plurality of sequences is obtained from *Bacillus subtilis*, classified in class 435, subclass 7.32.
- II. Claims 1, 11, 34, 36 and 42-44 are drawn to a method for determining the mode of action of an antimicrobial compound wherein a single sequence is selected from the plurality of sequences is selected from the group of genes disclosed in Tables 4-21 classified in class 435, subclass 6.
- III. Claims 1, 11, 34, 36, 42-43 and 46 are drawn to a method for determining the mode of action of an antimicrobial compound wherein the sequence is drawn to yerQ or a fragment thereof, classified in class 435, subclass 6.
- IV. Claims 1, 11, 34, 36, 42-43 and 50-51 are drawn to a method for determining the mode of action of an antimicrobial compound comprising the SA0681 sequence or a fragment thereof which is obtained from *Staphylococcus aureus*, classified in class 435, subclass 7.33.
- V. Claims 1, 11, 34, 36, 42-43, 50 and 52, drawn to a method for determining the mode of action of an antimicrobial compound comprising the SP1714 sequence or a fragment thereof which is obtained from *Staphylococcus aureus*, classified in class 435, subclass 7.33.

VI. Claims 1, 11, 34, 36, 42-43 and 53-54 are drawn to a method for determining the mode of action of an antimicrobial compound comprising the SP1045 sequence or a fragment thereof which is obtained from *Streptococcus pneumoniae*, classified in class 435, subclass 7.34.

VII. Claim 55 is drawn to a single isolated nucleic acid selected from the genes of Tables 4-23, classified in class 530, subclass 388.4.

VIII. Claim 56 is drawn to single substrate selected from the genes of Tables 4-21, classified in class 536, subclass 23.1.

IX. Claims 69-70 are drawn to a method for evaluating a compound for antimicrobial activity, classified in class 435, subclass 4.

X. Claim 75 is drawn to a method for screening for antimicrobial compounds, classified in class 435, subclass 32.

XI. Claim 79 is drawn to a set of at least two bacterial strains, classified in class 435, subclass 252.3.

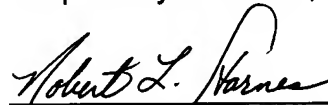
In response to these requirements, Applicants hereby elect the invention of Group I with traverse. Claims 1, 11, 27, 34, 36 and 42-43 read on the elected subject matter.

Applicants submit that Group I does not meet the independent and distinct requirement under 35 U.S.C. § 121. Claim 1 relates to a method for determining the mode of action of an antimicrobial compound in a bacterial cell. The methods of the present invention can be practiced with any bacterial cell, but the Restriction Requirement restricts the election to a specific bacterial cell, e.g., *Bacillus subtilis*. In the view of the Applicants, it would not be a burden to search all bacteria.

The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this response to the restriction requirement.

Date: August 12, 2005

Respectfully submitted,



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For: Methods for Identifying Markers of Antimicrobial Compounds

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

**Mail Stop: Restriction Req.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

I hereby certify that the attached correspondence comprising:

1. Response to Restriction Requirement

is being deposited with the United States Postal Service as first class mail in an envelope addressed to the address indicated above on August 12, 2005.

Seleste A. Buriani
(name of person mailing paper)

Seleste A. Buriani
(signature of person mailing paper)